

Message Text

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ACTION DLOS-04

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TO SECSTATE WASHDC IMMEDIATE 5811

C O N F I D E N T I A L SECTION 1 OF 2 USUN 0525

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PASS DEPSEC INGERSOLL, UNDER SECRETARY MAW, AMBASSADOR
LEARSON (S/AL)

E.O. 11652: GDS

TAGS: PLOS, UN

SUBJECT: LOS: COMMITTEE I INTERSESSIONAL MEETINGS

1. IN PREPARATION FOR UNDERSECRETARY'S COMMITTEE MEETING, THIS CABLE CONTAINS INFORMATION ON THE MOST RECENT DEVELOPMENTS IN COMMITTEE I NEGOTIATIONS BASED ON PRIVATE CONSULTATIONS WITH KEY LDC LEADERS AND THE INFORMAL MEETINGS CONVENED IN NEW YORK BY COMMITTEE I CHAIRMAN PAUL ENGO.

2. FROM THE BEGINNING OF THIS MEETING, A SMALL GROUP OF INFLUENTIAL COMMITTEE I REPS HAS MET AT THE INVITATION OF BRAZIL SIMULTANEOUSLY WITH MEETINGS CHAIRED BY ENGO. GROUP INCLUDED BRAZIL, CHILE, US, FRANCE, MEXICO, NORWAY, JAMAICA. IT MOVED DIRECTLY TO MANY OF MOST DIVISIVE ISSUES IN COMMITTEE I, WORKED OUT ADVANCES REPRESENTING SUBSTANTIAL IMPROVEMENT OVER SINGLE NEGOTIATING TEXT (SNT), AND ARRANGED TO HAVE ARTICLES REFLECTING THIS PROGRESS PRODUCED AS CHAIRMAN'S REVISED TEXTS.

3. PROGRESS MADE BY BRAZILIAN GROUP AND TRANSLATED INTO LARGER
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MEETING OCCURRED IN FIVE VITAL AREAS:

(A) ECONOMIC IMPLICATIONS--REVISED VERSION OF ARTICLE NINE
ABANDONS THE STRONGLY-HELD LDC DEMAND TO GIVE THE AUTHORITY
DIRECT PRICE AND PRODUCTION CONTROLS TO PROTECT LAND-BASED
PRODUCER LDC'S. DRAWING INSTEAD ON PROPOSALS ADVANCED IN PRIVATE
BY LDC LEADERS, IT RELIES FOR PROTECTION OF LAND-BASED
PRODUCERS ON A COMBINATION OF ANY FUTURE COMMODITY ARRANGEMENTS TO WH
ICH

AFFECTED STATES ARE PARTIES. COMPENSATORY SCHEMES AND A LIMIT ON
SEABED PRODUCTION LINKED TO GROWTH IN THE NICKEL MARKET FOR AN
INTERIM PERIOD (15 YEARS HAS BEEN DISCUSSED). IN ADDITION,
ARTICLE NINE NOW REFLECTS NEED TO BALANCE PRODUCER AND CONSUMER
INTERESTS. SPECIFICS OF COMMODITY ARRANGEMENTS, COMPENSATORY
SCHEMES AND INTERNATIONAL AUTHORITY'S ROLE WERE NOT DISCUSSED
IN DETAIL.

(B) SYSTEM OF ACCESS-REVISED ARTICLE TWENTY-TWO PROVIDES FOR
PARALLEL SYSTEM OF EXPLOITATION. ACCEPTANCE OF THIS APPROACH BY
LDC REPRESENTATIVES IS IMPORTANT BREAKTHROUGH FROM PREVIOUS
INSISTENCE THAT ONLY THE AUTHORITY COULD DIRECTLY EXPLOIT.
AUTHORITY WOULD HAVE "EFFECTIVE CONTROL OF A GENERAL AND OVERALL
NATURE" OVER ACTIVITIES OF EXPLORATION AND EXPLOITATION RATHER
THAN "DIRECT AND EFFECTIVE CONTROL" WITH ITS IMPLICATION OF
INTERFERENCE WITH MANAGEMENT. UNDER PROVISIONAL NEW TEXT
PRIVATE COMPANIES WOULD HAVE CONTRACTS BASED ON SAME CONDITIONS
REQUIRED OF ENTERPRISE WHICH ENSURES US OBJECTIVE OF AVOIDING
DISCRIMINATION BETWEEN ENTERPRISE AND OPERATIONS OF PRIVATE
COMPANIES.

(C) POWERS AND FUNCTIONS OF THE AUTHORITY--REVISION OF ARTICLE
TWENTY-SIX DROPS REFERENCE TO ASSEMBLY AS "SUPREME POLICY MAKING
BODY." INSTEAD, ASSEMBLY WOULD MAKE RECOMMENDATIONS AND
ESTABLISH GENERAL GUIDELINES ON MATTERS COVERED IN PART I (DEEP
SEABEDS) OF CONVENTION. ASSEMBLY'S POWERS AND FUNCTIONS ARE
SPECIFICALLY LISTED AND RESIDUAL POWERS WHICH ARE NOT LISTED
DO NOT ACCRUE TO THE ASSEMBLY. FURTHERMORE, ASSEMBLY MUST RESPECT
FUNCTIONS SPECIFICALLY ENTRUSTED TO OTHER ORGANS SUCH AS THE
COUNCIL.

(D) VOTING PROCEDURES IN ASSEMBLY--REVISED ARTICLE TWENTY-FIVE
INCORPORATES SEVERAL PROCEDURAL MECHANISMS WHICH WOULD MAKE IT VERY
DIFFICULT FOR ASSEMBLY TO TAKE DECISIONS AND PROVIDE OPPORTUNITY
FOR US TO REVERSE DECISIONS DURING A 90-DAY SUSPENSE PERIOD.
FURTHERMORE, LDC'S HAVE NOT STRENUOUSLY OBJECTED TO INDICATING
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DESIRABILITY OF SPECIAL VOTING PROCEDURES FOR CERTAIN QUESTIONS
OF SUBSTANCE (E.G. THE COLLEGIAL VOTING SYSTEM PROPOSED BY THE
FRENCH, LIMITED HOWEVER TO MAJOR ECONOMIC QUESTIONS.)

(E) SCOPE OF AUTHORITY'S POWERS--ARTICLE TWENTY-ONE REVISION
REPRESENTS MAJOR ADVANCE FOR US SECURITY INTERESTS. LDC'S
BACKED AWAY FROM DEMAND THAT AUTHORITY ADMINISTER THE AREA--
A FORMULATION ENCOMPASSING ALL ACTIVITIES CONDUCTED BEYOND NATIONAL
JURISDICTION--AND AGREED TO RESTRICT AUTHORITY

TO ADMINISTRATION OF RESOURCES OF THE AREA.

(F) PROCEDURAL PROTECTIONS--IN REVISING ARTICLES TWENTY-FOUR AND TWENTY-SIX, LDC'S AGREED TO INCORPORATE A VARIETY OF PROCEDURAL MECHANISMS TO IMPROVE US ABILITY TO INFLUENCE AND CONTROL AUTHORITY, E.G. SEPARATION OF POWERS AMONG PRINCIPAL ORGANS, THE ENTERPRISE WILL NOT BE A PRINCIPAL ORGAN, ROLE OF THE TECHNICAL COMMISSION IN SUPERVISION OF ACTIVITIES IS ENHANCED.

4. WE HAVE HAD USEFUL BILATERAL DISCUSSIONS WITH BRAZIL ON SCIENTIFIC RESEARCH. THEIR COMMITTEE I REP INDICATED THEIR PRIMARY CONCERN IS PROTECTION FROM INCREASING MILITARY ACTIVITIES IN THE AREA OF THEIR ECONOMIC ZONE. HE ADMITTED THAT THEIR INTERESTS IN CONTROL OVER SCIENTIFIC RESEARCH DID NOT EXTEND TO DEEP SEABED AND WILL ARGUE FOR SUCH DISTINCTION DURING THEIR UPCOMING POLICY REVIEW IN BRASILIA. BRAZIL HAS BEEN PARTICULARLY DIFFICULT ON THIS ISSUE IN THE PAST AND A SWITCH IN HER POSITION MAY BE QUITE INFLUENTIAL WITHIN 77.

5. WITHIN GROUP OF FIVE (UK,US,USSR,FRANCE, JAPAN) THERE HAS BEEN UNDERLYING DIVISION OVER QUESTION OF A QUOTA RESTRICTING STATES ACCESS TO RESOURCES. PREVIOUSLY, UK HAD BEEN STRONGEST PROPONENT. THEIR CI REP NOW INDICATES THAT IN MINISTERIAL REVIEW IN PROGRESS IN LONDON THEY ARE SEEKING FLEXIBILITY ON POINT AND JAPANESE HAVE TOLD FRG THEY ARE PREPARING TO GIVE UP INSISTENCE ON QUOTA.

6. LDC LEADERS CONTINUE TO RAISE WITH ME THE US PROPOSAL MADE IN GENEVA FOR RESERVATION OF AREAS FOR PREFERENTIAL ACCESS FOR LDC'S. THEY BELIEVE SUCH A SYSTEM WOULD BE AN IMPORTANT ELEMENT OF AN ACCETABLE COMMITTEE I PACKAGE WHICH INCLUDES A PARALLEL SYSTEM OF EXPLOITATION SUCH AS PROPOSED IN THE SECRETARY'S MONTREAL LOS SPEECH.

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7. OTHER ISSUES--ALTHOUGHT MEETINGS HAVE NOT ADDRESSED THEM SPECIFICALLY, IN PRIVATE CONVERSATIONS, LDC LEADERS INDICATE THAT IF SPIRIT OF PROGRESS ON MAJOR ECONOMIC ISSUES CONTINUES, THEY WILL BE FLEXIBLE ON OTHER IMPORTANT US ISSUES SUCH AS COMPOSITION OF COUNCIL, TRIBUNAL FOR SETTLEMENT OF DISPUTES, AND US PROPOSAL FOR RULE MAKING PROCEDURES.

8. THESE MEETINGS HAVE ALSO PRODUCED SIGNIFICANT CHANGES IN PROCEDURE WITHIN THE COMMITTEE. IN SHARP CONTRAST TO HIS PAST BEHAVIOR, CHAIRMAN ENGO HAS NOT ONLY PROVIDED ADEQUATE TIME AWAY FROM FORMAL MEETINGS TO PERMIT PRIVATE NEGOTIATIONS BUT HE HAS THOROUGHLY RESPECTED WORK PRODUCT OF THOSE NEGOTIATIONS. AS A RESULT, HE HAS TAKEN VERBATIM TEXTS WORKED OUT IN BRAZIL GROUP, COOPERATED IN PRESENTATION OF THE IDEAS CONTAINED THEREIN TO THE FULL MEETING, AND THEN PUT THESE TEXTS FORWARD AS HIS OWN

ATTEMPT TO REFLECT NEGOTIATING PROGRESS. CONSEQUENTLY, THIS MEETING WILL HAVE PRODUCED CHAIRMAN'S REVISIONS OF FIVE CRITICAL ARTICLES WHICH ARE VERY SUBSTANTIAL IMPROVEMENTS OVER SINGLE NEGOTIATING TEXT. THESE ARTICLES NOW GIVE COMMITTEE A GOOD BASIS FOR FUTURE DETAILED NEGOTIATION. FURTHERMORE, EMERGENCE OF THESE ARTICLES PRIOR TO MARCH SESSION SIMPLIFIES THE NEGOTIATING TASK BEFORE THE COMMITTEE. IT NOW APPEARS IT MAY BE POSSIBLE TO COMPLETE THE WORK OF COMMITTEE A IN TWO SESSIONS IN 1976.

9. THE BRAZILIAN GROUP WHICH ACHIEVED THESE ADVANCES HAS PROVEN ITSELF TO BE AN EXTREMELY EFFECTIVE NEGOTIATING FORUM. DISCUSSIONS ARE SERIOUS, ISSUES ARE TACKLED WITH A VIEW TOWARD RESOLUTION, AND ALL MEMBERS HAVE ACCEPTED RESPONSIBILITY FOR GETTING RESULTS OF NEGOTIATIONS SUPPORTED IN LARGER GROUPS. THE MEMBERS INCLUDED BOTH INFLUENTIAL LAND BASED PRODUCER LDC'S (BRAZIL, CHILE) AND THE MAJOR SPOKESMAN FOR EMERGING CONSUMER INTERESTS IN G77 (SINGAPORE. NORWAY SERVES AS A CREDIBLE MEDIATOR WITHIN GROUP.

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TO SECSTATE WASHDC IMMEDIATE 5812

C O N F I D E N T I A L SECTION 2 OF 2 USUN 0525

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US AND FRENCH REPRESENTATION PROVIDES CONTACT WITH G5 AND EC-9. THE CHARACTER OF THIS GROUP HAS BEEN AIDED SIGNIFICANTLY BY THE FACT THAT BRAZIL HAS CLEARLY CHANGED ITS SUBSTANTIVE POSITION, SEEING HERSELF AS A POTENTIAL SEABED PRODUCER (RATHER THAN ONLY A LAND-BASED PRODUCER) BUT MAINTAINING A COMMITMENT TO SUPPORT AND WORK WITH THE GROUP OF 77.

10. IN SUMMARY, PROGRESS DURING THESE INFORMAL CONSULTATIONS, IF UPHELD AND SUPPORTED BY LDC LEADERSHIP AT MARCH SESSION COULD SERVE AS NECESSARY CATALYST FOR EARLY COMPLETION OF CI NEGOTIATIONS.

11. MAJOR DIFFICULTIES TO BE NOTED IN FUTURE WORK INCLUDE:
PERUVIAN AND ALGERIAN ATTITUDES TOWARD COMPROMISE TEXTS REACHED IN NEW YORK, NEITHER DELEGATE WAS PRESENT ALTHOUGH PERUVIAN MISSION REP HAS BEEN INCLUDED AT ALL MEETINGS OF BRAZIL GROUP;
ABILITY OF G-77 TO ACCEPT DRASTIC CHANGES IN THEIR TRADITIONAL POSITIONS EVEN IN AREAS OF GREAT IDEOLOGICAL IMPORTANCE;
ABILITY OF MODERATE LDC'S SUCH AS BRAZIL AND SINGAPORE TO INFLUENCE G-77 POSITIONS; AND WILLINGNESS OF ENGO TO PLAY OUT HIS NEW ROLE OF INTRODUCING AND DEFENDING TEXTS DRAFTED FOR HIM BY PRINCIPAL NEGOTIATORS.
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